

Christian Calliess, Georg Nolte, and Peter-Tobias Stoll, ***Von der Diplomatie zum kodifizierten Völkerrecht. 75 Jahre Institut für Völkerrecht der Universität Göttingen (1930–2005)***. Cologne: Heymanns Verlag, 2006. Pp. 136. €49.80. ISBN: 9783452264726.

This short but exciting book on the history of international legal scholarship at the University of Göttingen contains 67 pages of text and an appendix with 61 documents and photographs. The history of the teaching and research of international law in that city of Lower Saxony spans a period of more than 270 years, and its scholars have left their mark on the development and distinctiveness of the discipline.

The publication coincides with the 75th anniversary of the establishment of the Institute of International Law of the University. As the President of the University noted in his address, the Göttingen Institute, with its library and 50,000 books, is one of the three leading centres of international law research in Germany, together with the Max Planck Institute for Comparative Public Law and International Law in Heidelberg and the Walther-Schücking Institute for International Law in Kiel.¹

¹ Von Figura, 'Die Entwicklung des Völkerrechts an der Universität Göttingen im Überblick', in C. Calliess, G. Nolte, and P.-T. Stoll, *Von der Diplomatie zum kodifiziertem Völkerrecht* (2006), at 6–7.

The volume includes contributions from Christian Calliess, Kurt von Figura, Thomas Läufer, Martti Koskeniemi, Dietrich Rauschnig, Hans-Gert Poettering, and José Martínez and Florian Prill. The authors take the reader on a fascinating trip through time, between 1734, when Johann Jakob Schmauß was appointed as the first Chair of International Law in Göttingen, three years before the formal establishment of the University,² and 2005, when the 'Institute of International Law' was renamed the 'Institute of International and European Law'. Three main themes attract the reader's attention.

First, it is about the footprint of German scholarship, and of Göttingen in particular, in the genesis and development of modern international law, despite, or perhaps because of, Germany's belated journey on the path to statehood. Schmauß was Professor of History, Natural Law, International Law, and Public Law; other eminent legal scholars who taught in Göttingen include Gottlieb Samuel Treuer, Georg Christian Gebauer, Johann Stephan Pütter, Gottfried Achenwall, Georg Friedrich von Martens, Friedrich Saalfeld, and Julius Hatschek.³ Von Martens (1756–1821) in particular was an early leading legal positivist, whose life and work coincided with the transition from the French (1648–1815) to the British (1815–1919) age of international law; his work, including the *Recueil de Traités*, has exercised a huge influence on the method of international law.

It may come as a surprise that our approach to international law is rooted not only in the centres and capitals of the colonial powers, but significantly on the periphery of the European system. In his essay on Martens, Koskeniemi emphatically stressed the contribution of German scholarship: '[t]he way we theorize about international law has grown out of German public law ... Among the effects of the Peace Treaties of 1648 was the demise, if not

in theory then in practice, of the Holy Roman Empire. But though the Empire was finished as a political actor, it did not come to an end as the ideal framework within which German lawyers and political thinkers continued to contemplate the organization of the largest part of Europe. Our received view of the international legal world is the view of the defunct Holy Roman Empire, writ large'.⁴

Secondly, it is about the differentiation and relative autonomy of international law as a normative subsystem and as a discipline. As evidenced by the fields of research and teaching of the Göttingen scholars, international law and public law in Germany progressively differentiated themselves from each other, but evolved in parallel; this may be ascribed to the hybrid internal structure of the Empire. Since then, this linkage has been reflected in the organization of German academia. Under the current practice, for instance, the combined *venia legendi* for international law, public law, and European law is still required for international law Chairs. Other than in the American tradition, in which international legal scholarship is relatively open to international relations theory and economic analysis of law, German – and, more broadly, European – scholars have further nurtured the positivist-formalist culture of G.F. von Martens. Apart from the potential shortcomings of the European approach, its comparative advantage in the era of globalization is located in its capacity to conceptualize the categories of transnationalism and supranationalism, but also to mollify the sharpness of the distinction between the domestic and the international, which is a defining feature of US constitutional and judicial practice.

Thirdly, the book is informative on the totalitarian practices of National Socialism against academic freedom. In 1937, Herbert Kraus, the urbane Professor of International Law and first Director of the Seminar of International Law and Diplomacy of the

² J. Martínez and F. Prill, *Geschichte der Völkerrechtsforschung und -lehre an der Georg-August-Universität Göttingen*, in *ibid.*, at 51.

³ *Ibid.*, at 51–56.

⁴ Koskeniemi, 'Georg Friedrich von Martens (1756–1821) and the Origins of Modern International Law', in *ibid.*, at 13.

University, was dismissed under pressure from Nazi student groups and regional NSDAP organizations.⁵ He was temporarily replaced by Wilhelm Grewe, Hermann Raschhofer, and Eduard Wahl; in 1938, Georg Erler was appointed acting director of the Seminar. Ulrich von Hassel refused an informal invitation to assume the Chair of international law; in July 1944, he participated in the failed plot against Hitler and was executed. In a strange twist of events, Kraus regained his Chair after the war, but was granted leave to defend, in the main Nuremberg war crimes trial, the former Reichsbank President Hjalmar Schacht, who was later acquitted. Grewe returned to the University of Göttingen for a period of four years (1945–1949), and Erler succeeded Kraus in the Chair of International Law in 1954 after the latter's retirement.⁶ The history of German academia at this time has yet to be fully researched and assessed.

The history of international law should not be reduced to the vision and practices of the dominant powers or to the biographies of leading scholars. It can also be traced in the intellectual history of regional academic centres and communities, and in the impact of their networking and discourses. Though this perspective offers necessarily fragmented information, it may provide the background to the evolution of the international legal system, including the often obscure and informal institutional relationship between the academic establishment and the political power-holders of the time. The volume by Calliess, Nolte, and Stoll constitutes a valuable contribution to the study of the *Ortung* and *Ordnung* of international law. The appendix documents are also worth reading, as they offer fascinating insights into the *Zeitgeist*.

Individual Contributions

Christian Calliess, Das Institut für Völkerrecht der Universität Göttingen – Eine kleine (auch literarische) Zeitreise von Herbert Kraus zu Georg Friedrich Martens:

Kurt von Figura, Die Entwicklung des Völkerrechts an der Universität Göttingen im Überblick:

Thomas Läufer, Das Völkerrecht im Umbruch: Herausforderungen an den international tätigen Juristen:

Martti Koskeniemi, Georg Friedrich von Martens (1756–1821) and the Origins of Modern International Law:

Dietrich Rauschning, Herbert Kraus (1884–1965):

Hans-Gert Pöttering, Das Europa der Zukunft – Die Werte der Europäischen Union und die Grenzen der Erweiterung:

José Martínez and Florian Prill, Geschichte der Völkerrechtsforschung und -lehre an der Georg-August-Universität Göttingen

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⁵ Rausching, 'Herbert Kraus (1884–1965)', in *ibid.*, at 37–38.

⁶ Martínez and Prill, *supra* note 2, at 58–62.